

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE APRIL 14, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1336

Introduced by Senator Jackson

February 19, 2016

An act to amend Sections 358 and 361.3 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1336, as amended, Jackson. Dependent children: placement with relatives.

Existing law requires a county social worker to investigate the circumstances of each child taken into temporary custody by a peace officer who has reasonable cause to believe the child is the victim of abuse or neglect. Existing law requires the social worker to conduct an investigation to identify and locate adult relatives of the child and to provide him or her with a specified relative information form. Existing law further requires the social worker to initiate an assessment of the suitability of a relative who requests that the child be placed with him or her.

Under existing law, the juvenile court is required to hold a hearing to determine the proper disposition to be made of a child adjudged a dependent of the juvenile court. Existing law requires the court to consider the social study of the child made by the social worker before the court arrives at its judgment. Existing law requires that, subsequent to the hearing, consideration for placement *again* be given to ~~relatives, as specified.~~ *relatives whenever a new placement of the child must be*

made. Existing case law generally provides that the relative placement preference applies throughout the reunification period, and that a social worker is required to make an assessment of a relative who requests to be considered for placement at any time during that period.

This bill would require the juvenile court to make a finding as to whether the social worker exercised due diligence in conducting his or her investigation to identify, locate, and notify the child's relatives. The bill would state the intent of the Legislature to clarify, if a child is receiving reunification services and a relative identifies himself or herself to a county child welfare agency, that the relative be evaluated by the county child welfare agency and a recommendation be made to the court as to whether the relative should or should not be considered for placement. The bill would codify procedures that apply under existing law, as interpreted by case law, whenever a relative identifies himself or herself to the county during the reunification period for purposes of placement with that relative and the making of the assessment by the county, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature in amending
- 2 Section 361.3 of the Welfare and Institutions Code to clarify, if a
- 3 child is receiving reunification services and a relative identifies
- 4 himself or herself to a county child welfare agency, that the relative
- 5 be evaluated by the county child welfare agency and a
- 6 recommendation be made to the court as to whether the relative
- 7 should or should not be considered for placement.
- 8 SEC. 2. Section 358 of the Welfare and Institutions Code is
- 9 amended to read:
- 10 358. (a) After finding that a child is a person described in
- 11 Section 300, the court shall hear evidence on the question of the
- 12 proper disposition to be made of the child. Prior to making a
- 13 finding required by this section, the court may continue the hearing
- 14 on its own motion, the motion of the parent or guardian, or the
- 15 motion of the child, as follows:
- 16 (1) If the child is detained during the continuance, and the social
- 17 worker is not alleging that subdivision (b) of Section 361.5 is
- 18 applicable, the continuance shall not exceed 10 judicial days. The

1 court may make an order for detention of the child or for the child's
2 release from detention, during the period of continuance, as is
3 appropriate.

4 (2) If the child is not detained during the continuance, the
5 continuance shall not exceed 30 days after the date of the finding
6 pursuant to Section 356. However, the court may, for cause,
7 continue the hearing for an additional 15 days.

8 (3) If the social worker is alleging that subdivision (b) of Section
9 361.5 is applicable, the court shall continue the proceedings for a
10 period not to exceed 30 days. The social worker shall notify each
11 parent of the content of subdivision (b) of Section 361.5 and shall
12 inform each parent that if the court does not order reunification a
13 permanency planning hearing will be held, and that his or her
14 parental rights may be terminated within the timeframes specified
15 by law.

16 (b) (1) Before determining the appropriate disposition, the
17 court shall receive in evidence the social study of the child made
18 by the social worker, any study or evaluation made by a child
19 advocate appointed by the court, and other relevant and material
20 evidence as may be offered, including, but not limited to, the
21 willingness of the caregiver to provide legal permanency for the
22 child if reunification is unsuccessful. In any judgment and order
23 of disposition, the court shall specifically state that the social study
24 made by the social worker and the study or evaluation made by
25 the child advocate appointed by the court, if there be any, has been
26 read and considered by the court in arriving at its judgment and
27 order of disposition. Any social study or report submitted to the
28 court by the social worker shall include the individual child's case
29 plan developed pursuant to Section 16501.1.

30 ~~(1)~~

31 (2) Whenever a child is removed from a parent's or guardian's
32 custody, the court shall make a finding as to whether the social
33 worker has exercised due diligence in conducting the investigation,
34 as required pursuant to paragraph (1) of subdivision (e) of Section
35 309, to identify, locate, and notify the child's relatives, including
36 both maternal and paternal relatives.

37 ~~(2)~~

38 (3) When making the determination required pursuant to
39 paragraph ~~(1)~~, (2), the court may consider, among other examples
40 of due diligence, the extent to which the social worker has complied

1 with paragraph (1) of subdivision (e) of Section 309, and has done
2 any of the following:

3 (A) Asked the child, in an age-appropriate manner and consistent
4 with the child's best interest, about his or her relatives.

5 (B) Obtained information regarding the location of the child's
6 relatives.

7 (C) Reviewed the child's case file for any information regarding
8 the child's relatives.

9 (D) Telephoned, emailed, or visited all identified relatives.

10 (E) Asked located relatives for the names and locations of other
11 relatives.

12 (F) Used Internet search tools to locate relatives identified as
13 supports.

14 (c) If the court finds that a child is described by subdivision (h)
15 of Section 300 or that subdivision (b) of Section 361.5 may be
16 applicable, the court shall conduct the dispositional proceeding
17 pursuant to subdivision (c) of Section 361.5.

18 SEC. 3. Section 361.3 of the Welfare and Institutions Code is
19 amended to read:

20 361.3. (a) In any case in which a child is removed from the
21 physical custody of his or her parents pursuant to Section 361,
22 preferential consideration shall be given to a request by a relative
23 of the child for placement of the child with the relative, regardless
24 of the relative's immigration status. In determining whether
25 placement with a relative is appropriate, the county social worker
26 and court shall consider, but shall not be limited to, consideration
27 of all the following factors:

28 (1) The best interest of the child, including special physical,
29 psychological, educational, medical, or emotional needs.

30 (2) The wishes of the parent, the relative, and child, if
31 appropriate.

32 (3) The provisions of Part 6 (commencing with Section 7950)
33 of Division 12 of the Family Code regarding relative placement.

34 (4) Placement of siblings and half siblings in the same home,
35 unless that placement is found to be contrary to the safety and
36 well-being of any of the siblings, as provided in Section 16002.

37 (5) The good moral character of the relative and any other adult
38 living in the home, including whether any individual residing in
39 the home has a prior history of violent criminal acts or has been
40 responsible for acts of child abuse or neglect.

1 (6) The nature and duration of the relationship between the child
2 and the relative, and the relative's desire to care for, and to provide
3 legal permanency for, the child if reunification is unsuccessful.

4 (7) The ability of the relative to do the following:

5 (A) Provide a safe, secure, and stable environment for the child.

6 (B) Exercise proper and effective care and control of the child.

7 (C) Provide a home and the necessities of life for the child.

8 (D) Protect the child from his or her parents.

9 (E) Facilitate court-ordered reunification efforts with the parents.

10 (F) Facilitate visitation with the child's other relatives.

11 (G) Facilitate implementation of all elements of the case plan.

12 (H) Provide legal permanence for the child if reunification fails.

13 However, any finding made with respect to the factor considered
14 pursuant to this subparagraph and pursuant to subparagraph (G)
15 shall not be the sole basis for precluding preferential placement
16 with a relative.

17 (I) Arrange for appropriate and safe child care, as necessary.

18 (8) The safety of the relative's home. For a relative to be
19 considered appropriate to receive placement of a child under this
20 section, the relative's home shall first be approved pursuant to the
21 process and standards described in subdivision (d) of Section 309.

22 In this regard, the Legislature declares that a physical disability,
23 such as blindness or deafness, is no bar to the raising of children,
24 and a county social worker's determination as to the ability of a
25 disabled relative to exercise care and control should center upon
26 whether the relative's disability prevents him or her from exercising
27 care and control. The court shall order the parent to disclose to the
28 county social worker the names, residences, and any other known
29 identifying information of any maternal or paternal relatives of
30 the child. This inquiry shall not be construed, however, to guarantee
31 that the child will be placed with any person so identified. The
32 county social worker shall initially contact the relatives given
33 preferential consideration for placement to determine if they desire
34 the child to be placed with them. Those desiring placement shall
35 be assessed according to the factors enumerated in this subdivision.
36 The county social worker shall document these efforts in the social
37 study prepared pursuant to Section 358.1. The court shall authorize
38 the county social worker, while assessing these relatives for the
39 possibility of placement, to disclose to the relative, as appropriate,
40 the fact that the child is in custody, the alleged reasons for the

1 custody, and the projected likely date for the child's return home
2 or placement for adoption or legal guardianship. However, this
3 investigation shall not be construed as good cause for continuance
4 of the dispositional hearing conducted pursuant to Section 358.

5 (b) In any case in which more than one appropriate relative
6 requests preferential consideration pursuant to this section, each
7 relative shall be considered under the factors enumerated in
8 subdivision (a). Consistent with the legislative intent for children
9 to be placed immediately with a responsible relative, this section
10 does not limit the county social worker's ability to place a child
11 in the home of an appropriate relative or a nonrelative extended
12 family member pending the consideration of other relatives who
13 have requested preferential consideration.

14 (c) For purposes of this section:

15 (1) "Preferential consideration" means that the relative seeking
16 placement shall be the first placement to be considered and
17 investigated.

18 (2) "Relative" means an adult who is related to the child by
19 blood, adoption, or affinity within the fifth degree of kinship,
20 including stepparents, stepsiblings, and all relatives whose status
21 is preceded by the words "great," "great-great," or "grand," or the
22 spouse of any of these persons even if the marriage was terminated
23 by death or dissolution. However, only the following relatives
24 shall be given preferential consideration for the placement of the
25 child: an adult who is a grandparent, aunt, uncle, or sibling.

26 (d) (1) Subsequent to the hearing conducted pursuant to Section
27 358, *whenever a new placement of the child must be made*,
28 consideration for placement shall *again* be given as described in
29 this section to relatives who have not been found to be unsuitable
30 and who will fulfill the child's reunification or permanent plan
31 requirements. In addition to the factors described in subdivision
32 (a), the county social worker shall consider whether the relative
33 has established and maintained a relationship with the child.

34 (2) (A) *Whenever a relative identifies himself or herself to the*
35 *county subsequent to the hearing conducted pursuant to Section*
36 *358 and during the provision of reunification services, and the*
37 *county is not otherwise considering a change of placement, the*
38 *county shall, within 14 calendar days, determine whether the*
39 *relative may meet the best interests of the child and should*

1 *therefore be assessed and considered for placement according to*
2 *the factors described in subdivision (a).*

3 *(B) Within three days of determining whether to assess and*
4 *consider the relative for placement, the county shall inform the*
5 *court, the relative, and the parties to the case of its decision,*
6 *including the reasons for the decision.*

7 *(C) If the county does not assess the relative for placement, at*
8 *the request of a party to the case or on its own motion, the court*
9 *shall set the matter for hearing and may order the agency to assess*
10 *the relative and recommend to the court whether the child should*
11 *be placed with the relative.*

12 *(D) Notwithstanding Section 388, a relative may request a*
13 *hearing before the court if the county decided not to assess the*
14 *relative for placement. The court may set the matter for hearing*
15 *and may order the agency to assess the relative and recommend*
16 *to the court whether the child should be placed with the relative.*
17 *If the court does not set the matter for hearing, the court shall state*
18 *its reasons on the record.*

19 *(e) If the court does not place the child with a relative who has*
20 *been considered for placement pursuant to this section, the court*
21 *shall state for the record the reasons placement with that relative*
22 *was denied.*

23 *(f) (1) With respect to a child who satisfies the criteria set forth*
24 *in paragraph (2), the department and any licensed adoption agency*
25 *may search for a relative and furnish identifying information*
26 *relating to the child to that relative if it is believed the child's*
27 *welfare will be promoted thereby.*

28 *(2) Paragraph (1) shall apply if both of the following conditions*
29 *are satisfied:*

30 *(A) The child was previously a dependent of the court.*

31 *(B) The child was previously adopted and the adoption has been*
32 *disrupted, set aside pursuant to Section 9100 or 9102 of the Family*
33 *Code, or the child has been released into the custody of the*
34 *department or a licensed adoption agency by the adoptive parent*
35 *or parents.*

36 *(3) As used in this subdivision, "relative" includes a member*
37 *of the child's birth family and nonrelated extended family*
38 *members, regardless of whether the parental rights were terminated,*
39 *provided that both of the following are true:*

1 (A) No appropriate potential caretaker is known to exist from
2 the child’s adoptive family, including nonrelated extended family
3 members of the adoptive family.
4 (B) The child was not the subject of a voluntary relinquishment
5 by the birth parents pursuant to Section 8700 of the Family Code
6 or Section 1255.7 of the Health and Safety Code.

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9 **CORRECTIONS:**
10 **Text—Pages 2 and 8.**
11 _____